



		<p>11 career, have you ever been involved in 12 conversations with Boston Scientific 13 regarding the procurement of polypropylene 14 from Philips Sumika? 15 A. I actually don't recall. 16 Q. Sitting here today, you have no 17 memory of any interactions with Boston 18 Scientific on polypropylene resin 19 specifically? 20 A. I don't -- I actually don't 21 have memory of it, no, I don't. 22 Q. Okay. And can you just tell me 23 what your job duties are as the procurement 24 operation manager? 43 1 A. Basically, I'm responsible for 2 the plant operations side of procurement, so 3 I'm not -- I'm responsible for what the 4 plants buy themselves</p>
<p>fz030714revised, (Page 45:3 to 45:12) 45 3 Q. And in the deposition notice 4 from Boston Scientific, we specifically asked 5 about the medical application caution 6 language that's on the first page of the 7 MSDS, and do you understand the medical 8 application caution language to be what's 9 contained in those three paragraphs under 10 what I've just highlighted? 11 A. Yes, I can read -- read that 12 it's on here, yes.</p>		<p>[Counter Designations to 45:3- 45:12] fz030714revised, (Page 45:22 to 45:23) 45 22 Q. Do you know who wrote the MSDS? 23 A. I do not.  fz030714revised, (Page 137:12 to 137:16) 137 12 Q. Are you aware at all, sir, of 13 the -- any regulations related to the 14 contents of an MSDS sheet?</p>

		<p>15 MR. MARRS: Objection, form.</p> <p>16 A. I'm not.</p> <p>fz030714revised, (Pages 137:18 to 138:1)</p> <p>137</p> <p>18 Q. Are you aware at all of whether</p> <p>19 the appropriate applications for use of a</p> <p>20 particular material product are supposed to</p> <p>21 be included in Section 1?</p> <p>22 MR. MARRS: Objection, form.</p> <p>23 MR. STRONGMAN: Form.</p> <p>24 A. No. We do not determine</p> <p>138</p> <p>1 suitability of use.</p>
<p>fz030714revised, (Pages 45:24 to 46:11)</p> <p>45</p> <p>24 Q. Was the medical application</p> <p>46</p> <p>1 statement that we've highlighted in</p> <p>2 Deposition Exhibit 3 added to the</p> <p>3 polypropylene MSDS based on any scientific</p> <p>4 testing that was conducted?</p> <p>5 A. Not that I'm aware of, no.</p> <p>6 Q. And was the medical application</p> <p>7 statement for polypropylene in the MSDS</p> <p>8 marked as Deposition Exhibit 3 added based on</p> <p>9 any specific scientific data on</p> <p>10 polypropylene?</p> <p>11 A. No. Not that I'm aware of.</p>	<p>45:24-46:11</p> <p>FRE 401, 402, 403, 602, Speculative, Foundation</p>	<p>fz030714revised, (Pages 134:10 to 135:6)</p> <p>134</p> <p>10 Q. You, I think based on the</p> <p>11 answer you just gave, are not involved in the</p> <p>12 actual scientific testing, the technical side</p> <p>13 of Phillips Sumika?</p> <p>14 A. Correct.</p> <p>15 Q. So the actual testing of</p> <p>16 Phillips Sumika of Marlex is not something</p> <p>17 with which you're involved?</p> <p>18 MS. COHEN: Objection.</p> <p>19 MR. STRONGMAN: Form.</p> <p>20 A. Hands-on involvement, no.</p> <p>21 BY MR. PERDUE:</p> <p>22 Q. As you sit here today, you are</p> <p>23 not aware of testing that Phillips Sumika did</p>

		<p>24 regarding the safety or lack of safety to use</p> <p>135</p> <p>1 Marlex in polypropylene mesh for implantation</p> <p>2 in the human body?</p> <p>3 MR. MERRELL:</p> <p>Objection, form.</p> <p>4 MR.</p> <p>STRONGMAN: Form.</p> <p>5 A. We did no testing of any Marlex</p> <p>6 for medical applications.</p>
<p>fz030714revised, (Page 47:8 to 47:21)</p> <p>47</p> <p>8 Q. Was the medical application</p> <p>9 statement that we're looking at in Deposition</p> <p>10 Exhibit 3 added to the polypropylene MSDS</p> <p>11 based on any review of the scientific or</p> <p>12 medical literature on polypropylene?</p> <p>13 A. Yeah, I'm not aware of any</p> <p>14 testing or information on polypropylene</p> <p>15 related to this statement.</p> <p>16 Q. And was the medical application</p> <p>17 statement for the polypropylene material</p> <p>18 safety data sheet added to the MSDS based on</p> <p>19 any scientific concerns with vaginal mesh</p> <p>20 specifically?</p> <p>21 A. No.</p>	<p>47:8 – 47:21</p> <p>FRE 401,</p> <p>402, 403,</p> <p>602,</p> <p>Speculative,</p> <p>Foundation</p>	
<p>fz030714revised, (Pages 64:4 to 65:1)</p> <p>64</p> <p>4 Q. I'm going to hand you what's</p> <p>5 been marked as Deposition Exhibit 7, and</p> <p>6 Deposition Exhibit 7 is Bates numbered CP-70,</p> <p>7 running to 79, and it's a Marlex HGX-030-01</p> <p>8 polypropylene MSDS.</p> <p>9 Mr. Zakrzewski, have you seen</p> <p>10 Deposition Exhibit 7 in your preparation for</p> <p>11 your deposition today?</p> <p>12 A. Yes, I believe I have.</p> <p>13 Q. And with regard to Deposition</p> <p>14 Exhibit 7, this MSDS for HGX-030-01 has</p> <p>what</p> <p>15 revision date?</p> <p>16 A. 10/17/2011.</p> <p>17 Q. And the HGX-030-01 MSDS marked</p> <p>18 as Deposition Exhibit 7 likewise has a</p> <p>19 medical application statement in Section 1;</p> <p>20 is that correct?</p> <p>21 A. It does.</p> <p>22 Q. And was the medical application</p>	<p>64:22-65:1</p>	

<p>23 statement in Deposition Exhibit 7 placed on</p> <p>24 the MSDS based on any scientific testing that</p> <p>65</p> <p>1 was done on polypropylene?</p>	<p>FRE 401, 402, 403, 602, Foundation, Speculative.</p>	
<p>fz030714revised, (Pages 65:3 to 66:11)</p> <p>65</p> <p>3 A. I know of no scientific testing</p> <p>4 related to this.</p> <p>5 BY MR. STRONGMAN:</p> <p>6 Q. And if you could look with me</p> <p>7 at the very last page, Bates numbered</p> <p>8 CP-00078, on Deposition Exhibit 7, are you</p> <p>9 with me?</p> <p>10 A. Page 78, yes.</p> <p>11 Q. And there's a legacy MSDS</p> <p>12 number included for Deposition Exhibit 7 on</p> <p>13 that page. Do you see it?</p> <p>14 A. Yes.</p> <p>15 Q. And what is the legacy MSDS</p> <p>16 number that's provided?</p> <p>17 A. 240590.</p> <p>18 Q. And is that the same MSDS</p> <p>19 number for the MSDSs that we were just</p> <p>20 looking at?</p> <p>21 A. Yes.</p> <p>22 Q. And on the same page under that</p> <p>23 same section of Deposition Exhibit 7, there</p> <p>24 is an NFPA classification, do you see that?</p> <p>66</p> <p>1 A. I'm sorry, NFPA? Yes.</p> <p>2 Q. And there's a health hazard</p> <p>3 category. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And what is the number given</p> <p>6 for health hazard?</p> <p>7 A. Zero.</p> <p>8 Q. Mr. Zakrzewski, are you aware</p> <p>9 of Phillips adding a medical application</p> <p>10 statement to any MSDS for polypropylene as a</p> <p>11 result of scientific testing that was done?</p>	<p>65:3-4 FRE 401, 402, 403, 602, Foundation, Speculative</p> <p>66:8-66:13 FRE 401, 402, 403, 602, Foundation, Speculative</p>	
<p>fz030714revised, (Page 66:13 to 66:13)</p> <p>66</p>	<p>66:13</p>	

13 A. I am not.	FRE 401, 402, 403, 602, Foundation, Speculative	
<p>fz030714revised, (Pages 69:18 to 71:8) 69</p> <p>18 Q. Mr. Zakrzewski, have you had an 19 opportunity to review Deposition Exhibit 8? 20 A. Yes. 21 Q. And for the record, Deposition 22 Exhibit 8 is an agreement between PSPC and 23 Boston Scientific; is that correct? 24 A. Yes. 70</p> <p>1 Q. And what was the effective date 2 of the agreement marked as Deposition 3 Exhibit 8? 4 A. October 1, 2004. 5 Q. So the effective date of the 6 agreement between PSPC and Boston Scientific 7 was after January of 2004, correct? 8 A. October comes after January, 9 correct. 10 Q. And looking down at the second 11 paragraph of Exhibit 8, the agreement states 12 that Boston Scientific may from time to time 13 order certain PSPC polypropylene product 14 listed in Attachment A. Do you see that? 15 A. Yes, I see that. 16 Q. And did you look at 17 Attachment A to Deposition Exhibit 8? 18 A. Yes, I did. 19 Q. And Attachment A lists 20 HGX-030-01; is that correct? 21 A. Yes. 22 Q. And that's a polypropylene 23 grade? 24 A. Yes. 71</p> <p>1 Q. And based on the terms of the 2 agreement that's marked as Deposition 3 Exhibit 8, it states that the polypropylene 4 may be used by, for or on behalf of Boston 5 Scientific in the manufacture of medical 6 devices which may be implanted in the human 7 body or have contact with internal body 8 fluids or tissues; is that correct?</p>		<p>fz030714revised, (Page 74:6 to 74:9) 74</p> <p>6 Q. Based on Deposition Exhibit 8, 7 PSPC agreed that it would sell polypropylene 8 to Boston Scientific after January 28th of 9 2004; is that fair? fz030714revised, (Pages 74:18 to 75:8) 74</p> <p>18 A. You're asking if they could -- 19 if we would agree to sell polypropylene to 20 them, not the application? Yes. 21 BY MR. STRONGMAN: 22 Q. So yes, PSPC based on 23 Exhibit 8 -- 24 A. We don't know your application. 75</p> <p>1 Q. And is it the responsibility of 2 the entity that purchases the resin from 3 Phillips to make sure that the application is 4 appropriate? 5 A. Yeah, this is standard language 6 on contracts that we do not determine 7 suitability of use. We don't know your 8 market or your application.</p>
<p>fz030714revised, (Page 71:13 to 71:14) 71</p> <p>13 A. The agreement gives them the</p>		

14 right to buy resin.		
fz030714revised, (Page 78:10 to 78:13) 78 10 Q. And you're not here today to 11 offer any criticisms about any conduct of 12 Boston Scientific; is that true? 13 A. That's true.	78:10-78:13 FRE 401, 402, 403	
fz030714revised, (Page 107:8 to 107:10) 107 8 Q. Phillips Sumika did not 9 consider Marlex 030 to be marketed and sold 10 for the intended use of medical devices?		<p><i>[Counter Designation to BSC 107:8-20]</i>  fz030714revised, (Page 86:15 to 86:17)  86  15 Q. Let me hand you what I've  16 marked as Exhibit 10.  17 A. Okay.</p> <p>fz030714revised, (Page 87:3 to 87:20)  87  3 Q. If you look to -- this is  4 Bates-labeled BSCM06700722580,  continuing  5 through. Look specifically if you would,  6 sir, to the e-mail of August 2nd, 2011, in  7 this string. Do you see the cc there? It's  8 the second page of Exhibit 10.  9 A. Yes.  10 Q. The cc -- the from is from Bob  11 Rhoades, correct?  12 A. Yes, sir.  13 Q. And it is an e-mail that is at  14 a cpchem.com e-mail address, correct?  15 A. Yes.  16 Q. Is that the e-mail address that  17 would have been used, to your knowledge, by  18 Mr. Rhoades in 2011?  19 MR.  STRONGMAN: Form.  20 A. Yes.</p>

		<p><i>fz030714revised, (Page 90:4 to 90:11)</i></p> <p>90</p> <p>4 Q. The first e-mail in this chain</p> <p>5 is from a Mr. McCaslin dated July the 29th,</p> <p>6 2011. Do you see that? It's page 7 of the</p> <p>7 exhibit.</p> <p>8 A. Yes.</p> <p>9 Q. And the subject matter is</p> <p>10 "Phillips Chevron," correct?</p> <p>11 A. Correct.</p> <p><i>fz030714revised, (Page 90:12 to 90:22)</i></p> <p>90</p> <p>12 Q. Do you have any recollection,</p> <p>13 sir, about history of purchases by Boston</p> <p>14 Scientific from Phillips Sumika before 2011?</p> <p>15 MR.</p> <p>STRONGMAN: Form.</p> <p>16 A. Direct? Direct purchases?</p> <p>17 BY MR. PERDUE:</p> <p>18 Q. Yes, sir.</p> <p>19 MR.</p> <p>STRONGMAN: Same objection.</p> <p>20 A. No, we did not sell -- based on</p> <p>21 the records I checked, we never sold Boston</p> <p>22 Scientific directly.</p> <p><i>fz030714revised, (Pages 92:23 to 93:4)</i></p> <p>92</p> <p>23 Q. If you go forward in the</p> <p>24 document, and that is in the e-mail chain,</p> <p>93</p> <p>1 you'll see an e-mail, sir, from Rick Williams</p>
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		<p>2 from a CPChem e-mail address. Do you see</p> <p>3 that on page 6?</p> <p>4 A. Yes.</p> <p>fz030714revised, (Pages 94:8 to 95:15)</p> <p>94</p> <p>8 Q. Mr. Williams writes on behalf</p> <p>9 of Chevron Phillips, "I have brought the</p> <p>10 below referenced issue to the attention of</p> <p>11 Bob Rhoades, Phillips Sumika General Manager.</p> <p>12 Bob has agreed to discuss the issue further</p> <p>13 with this Mr. Todd McCaslin, should he wish</p> <p>14 to contact Bob."</p> <p>15 Do you see that, sir?</p> <p>16 A. Yes, I do.</p> <p>17 Q. At this time in August 2011,</p> <p>18 was Mr. Rhoades the Phillips Sumika general</p> <p>19 manager?</p> <p>20 A. Yes, he was.</p> <p>21 Q. If you will go forward then,</p> <p>22 sir, in the e-mail chain to page 4, what is</p> <p>23 the date of this e-mail?</p> <p>24 A. August 2nd, 2011.</p> <p>95</p> <p>1 Q. And according to this document,</p> <p>2 who is it from?</p> <p>3 A. It's from Bob Rhoades.</p> <p>4 Q. Who is it to?</p> <p>5 A. It's to Todd McCaslin.</p> <p>6 Q. And who is the -- who is copied</p> <p>7 on the e-mail, included in the e-mail chain?</p>
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		<p>8 A. Frank Zakrzewski, myself.</p> <p>9 Q. And the subject matter is what,</p> <p>10 sir?</p> <p>11 A. PSPC HGX-030 -- oh, 03-01.</p> <p>12 Q. That is a polypropylene resin?</p> <p>13 A. Well, that's not, but --</p> <p>14 Q. There should be another zero?</p> <p>15 A. Should be another zero.</p> <p><i>fz030714revised, (Page 96:11 to 96:17)</i></p> <p>96</p> <p>11 Q. And what does Mr. Rhoades'</p> <p>12 e-mail say here on August 2nd, 2011?</p> <p>13 A. It says, "PSPC is not</p> <p>14 interested in amending our 2004 agreement</p> <p>15 concerning sales of HGX-03-01. The decision</p> <p>16 was made and agreed upon back in 2004, and</p> <p>17 our position has not changed."</p> <p><i>fz030714revised, (Pages 97:5 to 99:13)</i></p> <p>97</p> <p>5 Q. The next e-mail in the chain</p> <p>6 is, again, from Mr. Todd McCaslin at a BSCI,</p> <p>7 or Boston Scientific, e-mail address there on</p> <p>8 page 3. Do you see that, sir?</p> <p>9 A. Yes.</p> <p>10 Q. This is dated August 2nd, 2011,</p> <p>11 the same date, correct?</p> <p>12 A. Yes.</p>
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		<p>13 Q. It is addressed to Bob Rhoades 14 who was the GM for CPChem and -- 15 A. Phillips Sumika. 16 Q. -- Phillips Sumika? 17 A. Yes. 18 Q. And you were copied on this 19 e-mail, correct? 20 A. Correct. 21 Q. It has the same subject line, 22 correct? 23 A. Correct. 24 Q. And in this, Mr. McCaslin, who</p> <p style="text-align: center;">98</p> <p>1 works for Boston Scientific, says, "Bob, I 2 appreciate the quick response. Unfortunately 3 back in 2004 we were not aware how good the 4 Phillips material was and how difficult 5 finding a replacement would be. Would you be 6 willing to discuss this further, as I would 7 like to understand if there is anything 8 Boston Scientific could offer/provide that 9 would change this decision? 10 "If it's a liability issue, I 11 believe we can work with our legal to draft 12 appropriate language that fully protects 13 PSPC. If it is financial, I realize our 14 requirements are very small, we could discuss 15 a minimum cost that could be -- would be 16 attractive to PSPC. Let me know if you would</p>
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		<p>17 be willing to discuss further. Thank you,</p> <p>18 Todd, Todd McCaslin, Global Sourcing</p> <p>19 Director, Boston Scientific Corporation."</p> <p>20 As you sit here today, sir, do</p> <p>21 you have any recollection of receiving this</p> <p>22 e-mail?</p> <p>23 MR.</p> <p>STRONGMAN: Form,</p> <p>24 foundation.</p> <p>99</p> <p>1 A. No.</p> <p>2 BY MR. PERDUE:</p> <p>3 Q. Do you have any reason to</p> <p>4 dispute that you were cc'd on this e-mail</p> <p>5 chain?</p> <p>6 MR.</p> <p>STRONGMAN: Form.</p> <p>7 A. I do not.</p> <p>8 BY MR. PERDUE:</p> <p>9 Q. If we then go forward to</p> <p>10 Mr. Rhoades' reply, which is also dated</p> <p>11 August 2nd, 2011, at a later time, 6:05 p.m.</p> <p>12 Do you see that, sir? Page 2.</p> <p>13 A. Page 2. 6:05, yes, I see that.</p> <p>fz030714revised, (Pages 100:10 to 102:22)</p> <p>100</p> <p>10 Q. Mr. Rhoades writes to,</p> <p>11 according to the e-mail, Mr. McCaslin later</p> <p>12 on the evening of August 2nd, 2011. Do you</p> <p>13 see that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Mr. Rhoades writes, "Thanks,</p>
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		<p>16 Todd. We're simply not interested in this 17 business at any price, which is still the 18 basis of our past agreement with your 19 company." 20 Do you see that, sir? 21 MR. STRONGMAN: Form. 22 A. Yes. 23 BY MR. PERDUE: 24 Q. Do you have a recollection of 101 1 Mr. Rhoades responding to Mr. McCaslin's 2 repeated requests for purchases of 3 Marlex 030-01 in 2011 with a final response 4 that Phillips Sumika was simply not 5 interested in any price of further sales to 6 their company? 7 MR. STRONGMAN: Form, 8 foundation. 9 A. I mean, I'm starting -- 10 actually, I'm starting to remember a little 11 of this, but I don't have a lot of 12 recollection on the e- mails. 13 I do remember them coming back 14 now and asking for resin, and normal course 15 of business would have been Bob as a GM would 16 have spoken with the sales manager. 17 BY MR. PERDUE: 18 Q. The course of this would be 19 normal? 20 A. Yes.</p>
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		<p>21 Q. And the ultimate  22 decision on  23 behalf of Phillips Sumika  24 would be Bob's,  25 Mr. Rhoades'?</p> <p>26 A. The decision  27 would be Bob's.</p> <p>102</p> <p>1 Q. You have testified  2 that Boston  3 Scientific -- pardon me,  4 that Phillips Sumika  5 never sold Boston  6 Scientific resin for the  7 express purpose of  8 implantation through a  9 medical device for  10 permanent use in the human  11 body?</p> <p>12 MR.  13 STRONGMAN: Form,  14 foundation.</p> <p>15 A. Actually, we  16 never -- we don't  17 have any records of  18 making any sale.  19 Normally we set up a  20 customer, ship to, bill  21 to, a name. In SAP we  22 don't have any records  23 of ever selling Boston  24 Scientific resin  25 directly.</p> <p>26 BY MR. PERDUE:</p> <p>27 Q. As you sit here  28 today, do you  29 know then how Boston  30 Scientific ever got any  31 resin that it would  32 characterize as  33 Marlex 030-01?</p> <p>34 MR.  35 STRONGMAN: Form.</p> <p>36 A. Yeah, that would  37 be just  38 speculation on how they  39 got it</p>
fz030714revised, (Page 107:15 to 107:20) 107		
15 A. We don't determine suitability		

<p>16 of use. Our expertise is in producing resin,  17 and there are steps between resin and a final  18 product. We don't -- we're not experts in  19 processing. We're not experts in determining  20 how someone wants to use our product.</p>		
<p>fz030714revised, (Page 168:20 to 168:24)  168  20 Q. Did Phillips Sumika expect the  21 end processors to make the determination as  22 to the suitability of using Marlex resin for  23 whichever application they chose?  24 A. Yes.</p>	<p>168:20-24  FRE 401,  402, 403,  Foundation,  Speculative</p>	<p>fz030714revised, (Pages  192:17 to 193:1)  192  17 Q. Let's start with you  looking at  18 CP-00010 in Exhibit 18.  That would be one of  19 these data sheets, page  10. This is a Marlex  20 HGX-030-01 Phillips  Sumika data sheet; is  21 that correct?  22 A. Yes.  23 Q. And the  suggested applications  24 for Marlex HGX-030-01  by Phillips Sumika are  193  1 what?    fz030714revised, (Pages  193:23 to 194:2)  193  23 A. The data sheet reads,  "Woven  24 industrial fabric and  bags, woven carpet  194  1 backing, woven bags,  woven geotextile  2 fabrics," and "rope and  cordage."</p>
<p>fz030714revised, (Pages 178:24 to 180:10)  178  24 Q. Do you know if it's an  179  1 antioxidant?  2 A. Yes.  3 Q. You know that it is an  4 antioxidant?  5 A. Yes.  6 Q. And Irgafos 168, do you know  7 the purpose of that additive?  8 A. It's also an antioxidant.  9 Q. And DHT-4A, do you know what  10 that is?</p>		<p>fz030714revised, (Pages  127:24 to 128:11)  127  24 Q. Exhibit 14, Mr.  Zakrzewski, is  128  1 a production from CP, or  Chevron Phillips --  2 A. Phillips Sumika?  3 Q. -- Phillips  Sumika, dash, 00091  4 through 94. Can you  identify what this  5 document is?</p>

<p>11 A. Not sure.</p> <p>12 Q. And were these additives added</p> <p>13 to the Marlex resin, the HGX-030-01, in</p> <p>14 May -- starting May 31, 2002?</p> <p>15 MR. MATTHEWS: Object to form.</p> <p>16 A. According to this sheet, and</p> <p>17 I'm going by this manufacturing spec, it</p> <p>18 looks like this change was made in -- started</p> <p>19 running these additives 9/11 of '97, based on</p> <p>20 what I'm reading.</p> <p>21 BY MR. MERRELL:</p> <p>22 Q. And these three additives here,</p> <p>23 those are added by Phillips Sumika to the</p> <p>24 resin?</p> <p>180</p> <p>1 A. Yes.</p> <p>2 Q. Do you know if there were any</p> <p>3 changes at all to the additives after May 31,</p> <p>4 2002?</p> <p>5 A. Do I know if they were?</p> <p>6 Q. That there were any changes to</p> <p>7 the --</p> <p>8 A. No changes.</p> <p>9 Q. No changes?</p> <p>10 A. I confirmed that.</p>	<p>6 A. Well, a TSM</p> <p>would have been a</p> <p>7 technical service</p> <p>memorandum.</p> <p>8 Q. And tell us what</p> <p>a technical</p> <p>9 service memorandum is.</p> <p>10 A. Just reporting of</p> <p>some general</p> <p>11 information.</p> <p><i>fz030714revised, (Pages</i></p> <p><i>199:20 to 200:17)</i></p> <p>199</p> <p>20 On this technical service</p> <p>21 memorandum, I think you</p> <p>-- this is something</p> <p>22 that was, once again,</p> <p>prepared by Phillips</p> <p>23 Sumika, right?</p> <p>24 A. Yes.</p> <p>200</p> <p>1 Q. All right. And</p> <p>you can see</p> <p>2 where I've highlighted</p> <p>there it says,</p> <p>3 "Table 2 lists several</p> <p>strong mineral acids,</p> <p>4 halogens and oxygen</p> <p>which can chemically</p> <p>5 attack Marlex</p> <p>polypropylene causing</p> <p>6 degradation of the resin."</p> <p>7 Did I read that</p> <p>correctly?</p> <p>8 A. Yes.</p> <p>9 Q. That is something</p> <p>that Phillips</p> <p>10 Sumika was aware of and</p> <p>published with regard</p> <p>11 to its Marlex</p> <p>polypropylene, correct?</p> <p>12 MR. MARRS:</p> <p>Objection, form.</p> <p>13 A. Whoever did this</p> <p>document,</p> <p>14 yes --</p> <p>15 BY MR. MATTHEWS:</p> <p>16 Q. Right.</p> <p>17 A. -- stated that</p>
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		<p><i>fz030714revised, (Pages 201:14 to 202:9)</i></p> <p style="text-align: center;">201</p> <p>14 Q. Look on the next page, page 92.</p> <p>15 Down at the bottom, where it says "Table 2."</p> <p>16 On page 92 of Exhibit 14, it states that,</p> <p>17 "Marlex polypropylene has good chemical</p> <p>18 resistance to most mineral acids and bases,</p> <p>19 but like other polyolefins can be attacked by</p> <p>20 some strong mineral acids, halogens and</p> <p>21 oxygens. The effect of strong oxidizing</p> <p>22 agents is an attack on the polymer chain</p> <p>23 resulting in eventual embrittlement of the</p> <p>24 resin."</p> <p style="text-align: center;">202</p> <p>1 Again, based upon this document</p> <p>2 produced in response to our request, that</p> <p>3 information that I just read is something</p> <p>4 that was known to Phillips Sumika with regard</p> <p>5 to its Marlex polypropylene; is that correct?</p> <p>6 MS. COHEN: Foundation.</p> <p>7 MR.</p> <p>STRONGMAN: Objection,</p> <p>8 form.</p> <p>9 A. They printed it, yes.</p> <p><i>fz030714revised, (Page 203:3 to 203:5)</i></p> <p style="text-align: center;">203</p> <p>3 Q. I'll show you Exhibit 3, which</p> <p>4 is the 2004 MSDS.</p> <p>5 A. Okay.</p>
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		<p><i>fz030714revised, (Pages 204:13 to 205:8)</i></p> <p>204</p> <p>13 Q. Look on page 5. I think it's</p> <p>14 page 5 of Exhibit 3. Let me find mine. One</p> <p>15 second. Sorry, page 6.</p> <p>16 You see the statement that I've</p> <p>17 highlighted under Section 10?</p> <p>18 A. "Incompatibility with other</p> <p>19 materials may react with oxygen and strong</p> <p>20 oxidizing agents such as chlorates, nitrates,</p> <p>21 peroxides, et cetera."</p> <p>22 Q. And when Phillips Sumika makes</p> <p>23 a statement like this in its material safety</p> <p>24 data sheet, is that statement accurate?</p> <p>205</p> <p>1 A. Yes.</p> <p>2 Q. Is that something that Phillips</p> <p>3 Sumika would have personal knowledge of or it</p> <p>4 would not be in this material safety data</p> <p>5 sheet?</p> <p>6 MR. MERRELL: Objection, form.</p> <p>7 A. It's a -- I view it as a</p> <p>8 warning. It should be taken seriously.</p>
<p><i>fz030714revised, (Page 183:9 to 183:11)</i></p> <p>183</p> <p>9 Q. To be clear, though, as you</p> <p>10 said before, you've seen no testing that led</p> <p>11 to that change in the MSDS; is that correct?</p>	<p>183:9-14 FRE 401, 402, 403, 602, Foundation, Speculative</p>	
<p><i>fz030714revised, (Page 183:13 to 183:14)</i></p> <p>183</p> <p>13 A. There's no testing that I'm</p> <p>14 aware of</p>	<p>183:13-14 FRE 401, 402, 403, 602,</p>	

	Foundation, Speculative	
fz030714revised, (Page 184:11 to 184:14) 184 11 You're not aware of any 12 scientific basis for the medical caution 13 statement in the MSDS? 14 A. I'm not.	184:11-14 FRE 401, 402, 403, 602, Foundation, Speculative	

**1. Counter Exhibits**

- a. Zakrzewski Exhibit 10
- b. Zakrzewski Exhibit 14
- c. Zakrzewski Exhibit 18

DATED: June 26, 2015

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 26, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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